

MICHIGAN SUPREME COURT



Office of Public Information

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COURT OF APPEALS PROPOSES REVISED RULE CHANGES TO CUT DELAY

LANSING, MI, September 3, 2003 -- The Michigan Court of Appeals has proposed a revised series of court rule changes to significantly reduce appellate delays, Court of Appeals Chief Judge William C. Whitbeck announced today.

"These rule change proposals are part of our on-going delay reduction effort," Whitbeck said. "If they are accepted, they will cut an average of over 50 days out of the time that an opinion case spends before our Court."

The Court of Appeals is Michigan's intermediate appellate court. In March of 2002, the Court unanimously approved a wide-ranging delay reduction effort following an analysis of its results in 2001. In that year, the Court disposed of approximately 7,600 cases. Of these, the Court disposed of 3,100 cases by opinion. On average, the Court disposed of these opinion cases in 653 days. At its March 2003 Judges' meeting, the Court determined that this was simply unacceptable and adopted a long-range goal of disposing of 95% of all of its cases within 18 months of filing.

"To date, the results of this plan have been quite impressive," Whitbeck said. The average number of days that it takes to decide an opinion case has declined substantially at the Court of Appeals."

Statistics provided by Whitbeck show that the average time to decide an opinion case in 2001 was 653 days. That average dropped to 603 days in 2002 and 559 days for the first half of 2003.

Whitbeck noted that the Court has accomplished these reductions "without a single penny in additional resources; indeed, the Court's budget was reduced in both FY 2002 and FY 2003.

"Fortunately, for FY 2004, there was almost universal recognition of our urgent need to increase the number of attorneys in our Research Division. As part of an overall package of fee increase bills originated by the Supreme Court, supported by the

Executive Branch, enacted by the Legislature, and signed by the Governor, our Court will receive approximately \$525,000 more in revenues in FY 2004 from entry and motion fees than it received in FY 2003,” he said.

Whitbeck stated that these funds will allow the Court to increase its Research Division staff and eliminate or drastically reduce the time an opinion case sits in the Court’s “warehouse.” “Warehouse” is the term the Court applies to the phase in its processing in which opinion cases that have come out of the “Intake phase” cannot be assigned to the Court’s Research Division, due to lack of capacity in that Division.

The proposed court rule changes affect the “Intake phase” at the Court of Appeals. “Intake” is the term the Court applies to the filing of the lower court record and of appellate briefs and motions. Whitbeck stated that shortening the time in Intake is the final step in the Court’s delay reduction plan.

“Currently, an opinion case spends an average of 238 days in Intake. We believe that by modest reductions in the time allowed for briefing in civil cases and by eliminating stipulated extensions of time, we can reduce this time by approximately 54 days,” Whitbeck said.

Whitbeck indicated that there had been some opposition to the proposed rule changes from appellate practitioners. “It is my belief that the Judges at the Court of Appeals have done their job: the time in the Judicial Chambers has been cut in half and the time in the Warehouse has been reduced by 39 days. The Executive Branch and the Legislature have also done their job: commencing on October 1, 2003, we will have the necessary additional staff in our Research Division to eliminate the Warehouse or reduce it dramatically.”

Whitbeck went on to say that, “These actions take away the predicate for the opposition from some practitioners to our proposed court rule changes. Such court rule changes, these opponents contend, will not substantially reduce the overall time on appeal. Rather, they say that any shortening of the time in Intake will simply extend the time in the Warehouse. But if the Warehouse is eliminated or dramatically reduced, this contention falls of its own weight. So it is now time to address the delay in Intake directly through changes to the court rules, particularly those relating to stipulated extensions of time. These changes are essential to eliminating the culture of delay that has afflicted the appellate process for far too many years.”

The Court of Appeals made its original proposals for changes to the court rules in July of 2002. The revised proposals are contained in documents that Whitbeck filed with the Supreme Court on August 29, 2003. Copies of these documents are available from the Office of the Chief Judge of the Court of Appeals and may also be viewed at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/2002-34-Whitbeck.pdf>. More information about the proposed rules is available at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#proposed>; please see file no. 2002-34.

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